

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID ANGEL SIFUENTES, III,

Plaintiff,

v.

CHRISTIAN BROTHERS  
AUTOMOTIVE,

Defendant.

Case No. 1:21-cv-740

HON. JANET T. NEFF

**OPINION AND ORDER**

This is a *pro se* civil action brought pursuant to a state statute, M.C.L. § 445.903 (ECF No. 1). Now pending before the Court are Plaintiff's Objections (ECF No. 20) to the Magistrate Judge's Report and Recommendation (ECF No. 18). The Report and Recommendation recommended that this case be dismissed for lack of subject matter jurisdiction (*id.*)

Plaintiff objects that the Magistrate Judge's diversity jurisdiction analysis is inapplicable to this action because Plaintiff raised a federal breach of warranty claim under the Magnuson-Moss Warranty Act, even though he did not cite the Act in his Complaint (ECF No. 20 at PageID.68-69). Plaintiff only mentioned the Magnuson-Moss Warranty Act in Plaintiff's Opposition to Defendant's Motion to Dismiss (ECF No. 16 at PageID.45), and Plaintiff did not state a claim for violation of the Magnuson-Moss Warranty Act in his Complaint. *See Kuns v. Ford Motor Co.*, 926 F. Supp. 2d 976, 980 (N.D. Ohio), *aff'd*, 543 F. App'x 572 (6th Cir. 2013) ("Federal question jurisdiction appeared to be lacking because [plaintiff's] . . . only federal claim is a violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.* and that statute requires that class actions

have at least one hundred named plaintiffs to be brought in federal court. § 2310(d)(3).”).

Plainly, the Magistrate Judge’ correctly concluded that Plaintiff did not allege in his Complaint that the parties are citizens of different states, and the record shows that both parties are citizens of Michigan. 28 U.S.C. § 1332(a)(1). Plaintiff’s proposed amendment does not correct the diversity of citizenship issue but merely proposes to raise the request for damages (ECF No. 17). Thus, this Court lacks subject matter jurisdiction over this action, and the case must be dismissed. After reviewing the Report and Recommendation as well as Plaintiff’s Objections and the record, the Court concludes that the Report and Recommendation is adopted and the Objections are denied.

Therefore,

**IT IS HEREBY ORDERED** that Plaintiff’s Objections (ECF No. 20) are **DENIED**.

**IT IS FURTHER ORDERED** that the Court **APPROVES** and **ADOPTS** the Magistrate Judge’s Report and Recommendation (ECF No. 18) as the Opinion of the Court.

**IT IS FURTHER ORDERED** that Defendant’s Motion to Dismiss (ECF No. 14) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiff’s combined motion for judgment and to amend (ECF No. 17) is **DENIED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED** for lack of subject matter jurisdiction.

A Judgment will issue in accordance with this Opinion and Order. *See* FED. R. CIV. P. 58.

Dated: August 22, 2022

/s/ Janet T. Neff  
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JANET T. NEFF  
United States District Judge